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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,479	09/25/2000	Greg Lane	11712/2	2962

7590 03/28/2003  
KENYON & KENYON  
333 W SAN CARLOS STREET  
SUITE 600  
SAN JOSE, CA 95110-2711

EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicant(s)

09/669,479

Applicant(s)

LANE, GREG

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the method steps of claims 1-17 and 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4, 5, 11, 14, 15, and 21 lack positive method steps. Note, claims 1, 4, 5, 11, 14, 15, and 21 must recite positive method steps, e.g., each step should start with: "establishing..."; "monitoring..."; "issuing..."; etc.

In claim 5, the limitations of "collecting a sub-set of the available data from the computer game" and "providing the sub-set of available data to the second computer" renders the claim vague and indefinite because it is unclear exactly what type of available data is referred.

In claim 6, the step of "adjusting a resource value of the computer game" renders the claim vague since it is unclear exactly what is the resource value of the game.

In claim 18, the recited term "means" (line 10) is vague and indefinite since it is unclear what type of means is referred. Further, it is unclear whether the "means for issuing a command to modify the computer code" (line 14) come from the first computer or second computer.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Molnar et al. (5,166,886).

Molnar et al. teaches a computer-implemented system and method for remotely monitoring and dynamically changing the operation of a computer game/application program executing on a first computer (20) while the application program is executing, comprising: a first computer executing the computer game/application program; a second computer (42) executing a monitoring program; a network connection between the first computer and the second computer; means (located at the second computer) for monitoring the operation of the application program executing on the first computer while the application program is executing; means for issuing a command to modify the computer code of the application program while the application program is executing;

means at the first computer for modifying the computer code of the application program (select games); means (at the first computer) for continuing to execute the application in accordance with the modified computer code; establishing a network connection (202) between the first computer (20) and a remote second computer (42); operating the application program prior to establishing the network connection between the first computer and the remote second computer (initializing computer); storing, at the first computer, data relating to the operation of the application program; after the network connection is established, loading the data to the second computer; and analyzing the data at the second computer to assist in determining how to modify the computer code of the application program. See Figures 1-4 and columns 1-18.

Note that, the limitations of maintaining a server routing list at the first computer; at the first computer, querying the application program to determine a list of available data; at the first computer, collecting a sub-set of the available data from the application program (claim 5); changing an artificial intelligence module (predetermined program values or options) in the application program (claim 9); providing the sub-set of available data to the second computer (claim 15); adjusting the amount of memory allocated to part of the application program (claim 16); monitoring the operation of the application program at the second computer after the modification has taken effect (claims 10 and 17); and issuing a command to temporarily and permanently modify the computer code of the application while the application program is executing (claims 2, 3, 12, and 13) are inherently known.


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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

BN  
BN

  
S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700